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Meeting: 1362<sup>nd</sup> meeting (December 2019) (DH)

Communication from a NGO (Freedom of Belief Initiative and Norwegian Helsinki Committee) (28/10/2019) in the cases of ZENGİN, CUMHURİYETÇİ EĞİTİM VE KÜLTÜR MERKEZİ VAKFI and İZZETTİN DOĞAN AND OTHERS v. Turkey (Zengin group) (Applications No. 1448/04, 32093/10, 62649/10)

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1362<sup>e</sup> réunion (décembre 2019) (DH)

Communication d'une ONG (Freedom of Belief Initiative and Norwegian Helsinki Committee) (28/10/2019) dans les affaires ZENGİN, CUMHURİYETÇİ EĞİTİM VE KÜLTÜR MERKEZİ VAKFI et İZZETTİN DOĞAN ET AUTRES c. Turquie (groupe Zengin) (requêtes n° 1448/04, 32093/10, 62649/10) (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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Norwegian  
Helsinki Committee



DGI

28 OCT. 2019

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

The Committee of Ministers  
Council of Europe

Oslo 28 October 2019

CC: Ministry of Justice, Turkish Government

## Enforcement of the Judgements of the Zengin Group of Cases v. Turkey; Cumhuriyetçi Eğitim ve Kültür Vakfı v. Turkey; İzzettin Doğan and Others v. Turkey

The Freedom of Belief Initiative of the Norwegian Helsinki Committee is a human rights based project that monitors and reports on legislative, judicial and administrative developments related to freedom of religion or belief in Turkey.<sup>1</sup> Recognizing the importance of the European Convention system for the advancement of the protection of human rights in Turkey, monitoring of the implementation of freedom of religion or belief related judgments is a priority for the project.

This submission aims to provide information on the status of the general measures that the Turkish Government has taken in the context of enforcement of the European Court of Human Rights (ECtHR) judgments on the Zengin group of cases, Cumhuriyetçi Eğitim ve Kültür Vakfı v. Turkey and İzzettin Doğan and Others v. Turkey and the compatibility of these measures with the European Convention on Human Rights.

### **Zengin Group of Cases and findings of the ECtHR**

The Zengin Group of cases comprises of two ECtHR judgments: Hasan and Eylem Zengin v. Turkey and Mansur Yalçın and Others v. Turkey.<sup>2</sup> In both cases the applicants, who state that they are of the Alevi faith, claimed that the compulsory Religious Culture and Ethics (RCE, hereafter) courses that are taught in middle and high-school are in violation of their rights under the second part of Article 2 of Protocol I of the European Convention of Human Rights.

The ECtHR had found that Turkey has violated the right to education that is protected under Article 2 of Protocol I of the ECHR in the cases of Hasan and Eylem Zengin v. Turkey, and Mansur Yalçın and Others v. Turkey.

### ***General measures***

<sup>1</sup> For more information on the Norwegian Helsinki Committee see [www.nhc.no](http://www.nhc.no) and for more information on the Freedom of Belief Initiative see [www.inancozgurlugirisi.org](http://www.inancozgurlugirisi.org).

<sup>2</sup> ECtHR, *Hasan and Eylem Zengin v. Turkey*, Application no. 1448/04, 9 October 2007 and ECtHR, *Mansur Yalçın and Others v. Turkey*, Application no. 21163/11, 16 September 2014; ECtHR (Second Chamber), *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v Turkey*, Application no 32093/10, 20 June 2017; ECtHR (Grand Chamber), *İzzettin Doğan and Others v. Turkey*, Application No. 62649/10, 26 April 2016.

Observing the inadequacy of the Turkish education system in terms of meeting the requirements of objectivity and pluralism and providing an appropriate method for ensuring respect for parents' convictions, the Court has provided several general measures that the Turkish Government would need to take in order to prevent similar violations from happening:

- Bringing the Turkish educational system and domestic legislation into conformity with The Convention (Hasan and Eylem Zengin v. Turkey, para. 84);
- Make the necessary means available without delay, effective exemption mechanism and without pupils' parents being obliged to disclose their religious or philosophical convictions to make use of them (Mansur Yalçın and Others v. Turkey para. 76 and 77 and 84).

### **Government response and implementation**

On 21 December 2015 the Turkish Government has provided the Committee of Ministers with an Action Plan:

As implementation of the ECtHR judgment in question requires an assessment with broad participation, a Working Group will be established with broad participation, which will issue an advisory decision in this respect. Under the coordination of the Ministry of National Education, the participants from the Prime Ministry, the Ministry of Justice, the Directorate of Religious Affairs, academicians from various disciplines (education, theology, sociology, history, etc.) and the participants from the non-governmental organizations representing the parties will take part in the Working Group. The members of the Working Group will have been determined until the end of 2015, and the studies will have been started until the end of March 2016. It is planned that the Working Group will complete its studies, by examining implementation of other countries, until the end of 2016 at the latest. The report of the Working Group will be submitted to the Ministry of National Education in order to take the necessary decisions in terms of execution of the judgment finding a violation.<sup>3</sup>

In the Action Plan it was expressed that “an assessment with broad participation” will be made. This has, however, not been the case. The establishment and the work of the Working Group has been a process that has been carried out with a lack of transparency. To date, the composition of the working group, findings and report (if there is one) have not been made public.

On 23 October 2019 The Turkish Government provided the Committee of Ministers with a new Action Plan:

- The impending extraordinary events taking place in the meantime interrupted the implementation of these schedule as planned since the major concern was to restore the public order and the eliminate challenges posed to the national security (para. 34).
- Following the entry into force of the new curriculum of 2018, the Government would like to state that the criteria of objectivism and pluralism has been satisfied...thus creating an educational environment in which each student could learn general information objectively on religion and different schools of thoughts therein without having to follow from only one perspective the subjects discussed in the classes. (para. 45).
- The Turkish authorities would like to note that the individuals can receive exemption from the mandatory religion and ethics classes by virtue of judicial decisions. For example, in a case filed by the parents of a student the Antalya 3<sup>rd</sup> Chamber of Administrative Court dismissed the case on the ground that the class was mandatory (dated 31 January 2013, Docket no. 2013/48, Decision no. 2013/105). However, the 8th

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<sup>3</sup> Action Plan communicated by the Turkish Government on the case of Mansur Yalçın and Others v. Turkey, Document No. DH-DD(2016)43 ,15 January 2016, accessible at [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805acc71](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805acc71) ,

Chamber of Supreme Administrative Court quashed this judgment of the first instance court holding that the curriculum did not respect for the parents' convictions. (dated 11 November 2014, Docket no. 2014/8515, Decision no. 2014/8417) (para. 47)

- In this respect, parents who believe that the curriculum did not respect for their convictions can lodge an administrative case so that their children can be exempted from this lesson. (para. 48)

### **New program for Religious Culture and Ethics Lessons**

On 21 July 2017, the Ministry of National Education communicated the draft of its new middle (grades 4-8) and high-school (grades 9-12) program for Religious Culture and Ethics Lessons (RCE). The window for providing input on the draft program has been extremely short (21-31 July 2017).

The new program and new books have been prepared in a short period of time, ready for the commencement of the 2017-2018 school year in September 2017. The compulsory course is taught through grades 4-12 for two hours a week.

The new program included a number of positive changes:

- There is more extensive content on the Alevi faith compared to the previous program. Other religions, such as Judaism, Christianity, and Eastern religions are explored in separate chapters.
- The list of religions and beliefs that exist in Turkey have been extended to include the Bahai faith and Jehovah's Witnesses.
- The new program avoids the usage of the terms "our religion", "our prophet", "our holy book the Quran", which is reflective of teaching religion from within. This is an important accomplishment of the new program. The wide usage of these terms was highly problematic in the previous program.

The program still has significant shortcomings, however, contrary to ECHR standards:

1. The Sunni Islamic perspective continues to dominate the program, amounting to religious instruction as opposed to teaching about religions;
2. The teaching on atheism, agnosticism and deism is presented under "Other Approaches" and addressed with Islamic apologetics, i.e. students are presented with Islamic responses to these views;
3. One of the aims of the program is that students embrace "national values" and these are not drawn in a way representing religious and other types of diversity in Turkey;
4. The Turkish education system still does not contain a non-discriminatory exemption mechanism. Only Christian and Jewish students can be exempted on the condition that they document their religious affiliation - which constitutes an infringement of the right not to be compelled to disclose this. As a result, Alevi, atheist, Bahai or students belonging to other religious or belief communities must take the course;
5. Additionally, students who are exempted from the RCE course are subject to unequal conditions in the general test that all students take to enter high-school.<sup>4</sup>

### **Comments on the New Action Plan**

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<sup>4</sup> Until 2018 students who were exempt from the RCE course were asked alternative questions, however, in 2018 students were not asked alternative questions and this impacted their achievement negatively. This situation may be a factor in parents and students feeling compelled to forego exemption in order to avoid the loss in score.

While the new action plan of 2019 states that with the revised curricula “the criteria of objectivism and pluralism has been satisfied” as noted above this is not the case. In addition, the Government refers to the judgment of the Supreme Administrative Court which has granted exemption from the Religious Culture and Ethics course as a remedy for parents. There is a contradiction here. If the revised curriculum is compatible with Article 2 of Protocol 1 of the ECHR firstly, why are Christian and Jewish students still exempted from this course, secondly, why does the Turkish Supreme Administrative Court find that the curricula did not respect the rights of the parents.

In addition, having to open a court case in order to exercise the right to exemption from the Religious Culture and Ethics course is not a suitable mechanism for exemption; inter alia, it is costly and lengthy, parents have to go through a process of having to declare and defend their religion or belief. Given these difficulties not every parent who challenges the compatibility of the curriculum will take the route of pursuing legal remedies. It follows from the above that having to open a court case to exercise the right to exemption is not a mechanism compatible with Article 2 of Protocol 1 of the ECHR.

## Recommendations

Given this background, we recommend that:

- The Zengin group of cases be brought under enhanced supervision. There are two reasons for this. First, the issues that gave rise to the judgments are rooted in a structural problem affecting potentially thousands of students and parents. Second, though it has been 14 years since the *Hasan and Eylem v Turkey* judgment, the Government has not taken the necessary effective steps;
- The Government to be asked the following:
  - a) to make the Working Group on the implementation of these judgments open and transparent, including the list of participants, and widely inclusive;
  - b) to bring the Turkish educational system and domestic legislation into conformity with The Convention – in particular, by remedying the shortcomings in the current arrangements that are in the numbered list above;
  - c) to take steps to implement non-discriminatory exemption.
- The Government to be asked to provide a new Action Plan, setting out plans to bring about these changes.

## Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v Turkey Judgments and findings of the ECtHR

The Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v Turkey case concerned the possibility under Turkish law for places of worship to be granted an exemption from paying electricity bills and the refusal to grant this privilege to the applicant foundation.<sup>5</sup>

The applicant foundation has “new foundation” status under the Turkish Civil Code and runs cultural and education centres throughout Turkey. These centres often include *cemevis* (Alevi places of worship). In August 2006, submitting that a particular centre was a place of worship for the Alevi community, its director requested exemption from paying electricity bills, since the

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<sup>5</sup> ECtHR (Second Chamber), Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v Turkey, Application no 32093/10, 20 June 2017.

legislation provided that the electricity bills for places of worship would be paid from the budget of the Directorate of Religious Affairs (the Directorate, hereafter).

The foundation's claims were dismissed by the District Court in 2008, that based its decision on the Directorate's opinion that Alevism was not a religion and that the *cemevis* were not places of worship. That judgment was upheld by the Court of Cassation in 2009. The total amount of the Centre's unpaid bills came to about EUR 290,000.

The ECtHR had found that Turkey has violated Article 14 (prohibition of discrimination) taken together with Article 9 (freedom of thought, conscience and religion) of the ECHR since the differential treatment that the applicants were subjected to was not based on objective and reasonable grounds.

### *Findings & General measures*

The Court has foreseen several general measures that the Turkish Government would need to take in order to prevent similar violations from happening:

- The Court has found that the differential treatment to which the applicants were subjected did not have objective and reasonable basis. The Court has found that, taking into account that *cemevis* are places where worship takes place in relation to a religious belief, just like other known places of worship, the assessment made by domestic courts that Alevi faith does not constitute a religion cannot be used to justify the refusal to grant exemption from the payment of electricity bills (para. 28).
- It is important to note that the Court has taken into account the Government's views that as of 30 March 2013 the exemption afforded to places of worship only includes lighting expenses and not all electricity costs. **The Court found however, whatever the extent of the privileges afforded to places of worship – electricity bills or lighting costs – *cemevis* must be able to benefit from them fully. General measures need to be taken at the national level in order to eliminate the discrimination ensuing this exemption** (para. 29).

The Committee of Ministers has placed the supervision of the enforcement of the judgment under enhanced supervision procedure.

### **Government response and implementation**

#### *Action Plan 2015*

The Government announced on 5 December 2015 to the Committee of Ministers an Action Plan that states:

The Turkish Government would like to point out at the outset that the 64<sup>th</sup> Government declares in both its program and the Action Plan announced on 10 December 2015 that the traditional spiritual knowledge centres (*geleneksel irfan merkezleri*) and assembly houses (*cemevleri*) will be given a legal status in a short time.

In this context, the Turkish Government would like to underline that concrete and positive steps aimed at preventing the violation in question have been and are being taken.<sup>6</sup>

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<sup>6</sup> Action Plan communicated by the Turkish Government on the case of Mansur Yalçın and Others v. Turkey, Document No. DH-DD(2016)43, 15 January 2016, accessible at [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805acc71](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805acc71).

While the Action Plan refers to the granting of legal status for *cemevi* and spiritual knowledge centres this has not materialized. Furthermore there is no plan that has been communicated to the public.

#### *Action Plan 2019*

The Government submitted a new action plan on 23 October 2019:

- In the aftermath of above-mentioned challenges that took place during the cited period in Turkey public order and national security were disrupted and threatened substantially. The authorities would like to indicate that despite the impediments highlighted above in certain points a good progress has also been achieved. (para. 34)

The Government would like to recall that following the publication and dissemination of those judgments the domestic courts ruled in conformity with the Court's findings in the judgment of **Cumhuriyetçi Eğitim ve Kültür Merkezi v. Turkey** by the Court. (para. 35)

#### *Measures Taken at Domestic Level:*

##### **Executive**

##### *Self-declaration of building function under the ad hoc Amnesty on Unlicensed Buildings*

The only measure that may be considered a step toward a quasi possibility of benefiting from exemption from lighting expenses for *cemevis*, though so far ineffective, relates to the registration process related to the ad hoc amnesty on unlicensed buildings. On May 2018 the Government adopted the temporary Article 16 of the Public Works Law allowing for the registration of unlicensed buildings – more popularly known as the Zoning Peace or Amnesty on Unlicensed Buildings.<sup>7</sup> The deadline – initially scheduled to end on 31 October 2018 – for filing an application has been extended to June 2019, at the time of writing this submission.

Applications for the amnesty can still be made through the electronic state platform (e-devlet). Once the registration through this system is made a certificate of registration is obtained. In the course of this registration building owners have the possibility to indicate the “type of their building” and the options include places of worship. Hence this procedure makes it possible for those unlicensed buildings that are used for worship purposes and do not have place of worship status to indicate by self-declaration that they are indeed places of worship.

This initiative brings a number of benefits:

- *Cemevis* or other places of worship that are unlicensed and do not have place of worship status may acquire license and can assign themselves as place of worship during this process;
- That the process relies on self-declaration is compatible with ECHR standards.

The program still has significant shortcomings, however, contrary to ECHR standards:

- It is unclear whether the designation on the certificate of registration will lead to a change in the city plan and the deed of the building. We received information from an Alevi umbrella organization that out of over 100 members only 40 applications were made and none of them were finalised. Hence no organization had yet received any exemption from lighting costs.<sup>8</sup>

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<sup>7</sup> Law No 7143 on Re-structuring of Tax and Other Debts and Amendments to Certain Laws, 18 May 2018.

<sup>8</sup> Meeting with the head of an Alevi Federation in Ankara, 17 May 2019.

- *Cemevis* or other places of worship that do not have places of worship status but have license cannot assign themselves as place of worship since this procedure is only open to unlicensed buildings.
- The procedure is temporary and *ad hoc*.
- There still is not a generally applicable and accessible process whereby place of worship status may be obtained and ensuing benefits or privileges may be accessed.
- Lighting costs of places of worship are to be paid from the Presidency of Religious Affairs budget. Some religious or belief communities have reported that they object to this on conscientious grounds. They argue that the funds should be administered via a non-religious/neutral governmental body. The ECtHR has not expressed any opinion on the compatibility of the payment of lighting costs from the Presidency of Religious Affairs budget with the Convention. However, this relevant point raised by some religious or belief communities needs to be addressed.

## Judiciary

Following the ECtHR's *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v Turkey* judgment a number of domestic courts have ruled in favour of *cemevis* in the context of the payment of *cemevis*' electricity bills.

On 11 December 2018 Tarsus Civil Court of First Instance ruled in favour of the applicants; managers of the Sıtkı Baba Cemevi and Cem Vakfı Yenice Branch who had complained that the electricity bills had to be paid from the Presidency of Religious Affairs budget.

In November 2018 the Court of Appeals has ruled that the refusal of a *cemevi* to pay the electricity bills to the plaintiff, BEDAŞ – a private electricity distribution company – was justified.<sup>9</sup> As a result the bills needed to be paid from the Presidency of Religious Affairs budget on account of *cemevis* being places of worship.

Following these judgments, a legislative or administrative measure was expected from the Government. No steps have, however, been taken to date. **While court judgments are important, they do not automatically create a precedent that all courts must follow. Nor are they binding for the cases of *cemevis* other than those parties to these relevant cases.** In order to be able to benefit from the exemptions for the electricity bills each and every *cemevi* would have to pursue judicial remedies. This would be a costly, burdensome, lengthy process and not every *cemevi* would have the human and financial resources to pursue this path.

**Despite a number of favourable judgments the Government remains therefore under a positive obligation to put in place a non-discriminatory, clear, foreseeable and easily accessible process for accessing benefits applicable to places of worship.**

## Comments on the new action plan

In its 2019 Action Plan the Government refers to a number of positive domestic court judgments as we have also highlighted in our observations. However, positive domestic judgments cannot be considered a measure that amounts to effective implementation of general measures needed to

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<sup>9</sup> Court of Appeals 3rd Chamber, Judgment No. 2018/10602, 25.10.2018.



effectively enforce the *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakıf v. Turkey* judgment. Hundreds of *cemevi* associations would have to pursue judicial remedies.

In addition, despite domestic court judgments in favour of *cemevi* there is a question whether the domestic judgments have been enforced with regard to *cemevi* in question by relevant administrative bodies.

## Recommendations

On this background, we recommend that:

- A non-discriminatory process is put in place about acquisition of place of worship status and ensuing benefits that does not require *cemevi* associations to pursue legal remedies in each and every case to challenge the orders or payment for illumination charges.
- The Government should be asked the following:
  - a) to make public the status of any steps that are planned or are being taken about the implementation of this judgment;
  - b) engage in an inclusive and open process of consultation to identify the best procedure for the acquisition of place of worship and benefits that this status confers.
- The Government should be asked to provide a new Action Plan, laying out plans to bring about these changes.

## İzzettin Doğan and Others v. Turkey Judgments and findings of the ECtHR

The *İzzettin Doğan and Others v. Turkey* case concerned the request, by followers of the Alevi faith, that services connected with the practice of the Alevi faith constitute public service, that Alevi places of worship (*cemevis*) be granted the status of places of worship, that Alevi religious leaders be recruited as civil servants and that special provision be made in the budget for the practice of the Alevi faith.<sup>10</sup>

The Grand Chamber of the ECtHR found that Article 9 in conjunction with Article 14 has been violated.

The ECtHR found that Turkey had violated Article 9 (freedom of thought, conscience and religion) and Article 14 (prohibition of discrimination) taken together with Article 9 of the ECHR since the differential treatment that the applicants were subjected to was not based on objective and reasonable grounds.

### *Findings & General measures*

The Grand Chamber has found that:

- the situation ... amounts to denying the Alevi community the recognition that would allow its members – and in particular the applicants – to effectively enjoy their right to freedom of religion. In particular, the refusal complained of has had the effect of denying the autonomous existence of the Alevi community and has made it impossible for its members to use their places of worship (*cemevis*) and the title denoting their religious leaders (*dede*) in full conformity with the legislation. Consequently, in the absence of relevant and sufficient reasons, the respondent State has overstepped its margin of

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<sup>10</sup> ECtHR (Grand Chamber), *İzzettin Doğan and Others v. Turkey*, Application No. 62649/10, 26 April 2016.

appreciation. The interference complained of cannot therefore be considered necessary in a democratic society.

Accordingly, there has been a violation of Article 9 of the Convention. (para. 135)

- In particular, the Court cannot but note the glaring imbalance between the applicants' situation and that of persons who benefit from the religious public service. Not only is the Alevi community regarded as a "Sufi order (tarikati)" and made subject to a legal regime that entails numerous and significant restrictions (see paragraphs 126 to 127 above), but the members of the community are also denied the benefits of the religious public service. Whereas the Muslim religion in Turkey as understood by the RAD is almost wholly subsidised by the State, virtually none of the religious public services – with the exception of some studies on the different religious interpretations and the temporary assignment of religious functionaries for fixed periods – benefit the Alevi community as such, and its specific characteristics are almost entirely overlooked in that regard. Moreover, Turkish law makes no provision for any compensatory measures capable of remedying this marked discrepancy. (para. 180)
- In view of all the considerations set forth above – the existence of an Alevi community with deep roots in Turkish society and history, the importance for that community of being legally recognised, the Government's inability to justify the glaring imbalance between the status conferred on the majority understanding of Islam, in the form of a religious public service, and the almost blanket exclusion of the Alevi community from that service, and also the absence of compensatory measures – the choice made by the respondent State appears to the Court to be manifestly disproportionate to the aim pursued. (para. 184)
- In conclusion, the difference in treatment to which the applicants, as Alevis, have been subjected has no objective and reasonable justification. There has therefore been a violation of Article 14 of the Convention taken in conjunction with Article 9. (para. 185)

The Court has not foreseen any specific general measures in the judgment. However, a number of obligations on the part of the states have been underlined:

- In the light of its findings under Article 9 of the Convention ... the Court also doubts whether the Turkish system clearly defines the legal status of religious denominations, and especially that of the Alevi faith. The examination of the present case demonstrates in particular that the Alevi community is deprived of the legal protection that would allow it to effectively enjoy its right to freedom of religion ... Moreover, the legal regime governing religious denominations in Turkey appears to lack neutral criteria and to be virtually inaccessible to the Alevi faith, as it offers no safeguards apt to ensure that it does not become a source of de jure and de facto discrimination towards the adherents of other religions or beliefs (see paragraphs 29-34 above). In a democratic society based on the principles of pluralism and respect for cultural diversity, any difference on grounds of religion or beliefs requires compelling reasons by way of justification. In that regard it must be borne in mind that an unfavourable attitude and an unjustified difference in treatment with regard to a particular faith may have significant repercussions on the exercise of the religious freedom of its followers (see, to the same effect, paragraph 42 of the "Joint Guidelines on the Legal Personality of Religious or Belief Communities", paragraph 55 above). (para. 182)
- The Court stresses that its task in the present case is not to ascertain whether the request made by the applicants should or should not have been granted, particularly since they related to a large number of spheres. Furthermore, it is not the Court's place to impose

on a respondent State a particular form of cooperation with the various religious communities. As already stated (see paragraph 162 above), there is no doubt that the States enjoy a margin of appreciation in choosing the forms of cooperation with the various religious communities. However, whatever form is chosen, the State has a duty to put in place objective and non-discriminatory criteria so that religious communities which so wish are given a fair opportunity to apply for a status which confers specific advantages on religious denominations (see, *mutatis mutandis*, *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı*, cited above, § 49; see also paragraph 40 of the “Joint Guidelines on the Legal Personality of Religious or Belief Communities”, paragraph 55 above). (para. 183)

## **Government response and implementation**

### *Action Plan 2019*

The Government has not yet taken any specific measures to address the findings of the *İzzettin Doğan and Others v. Turkey* judgment – the measures, to the extent they are relevant, taken in the context of the *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı v. Turkey* judgment are presented as measures taken to enforce the *İzzettin Doğan and Others v. Turkey*.

## **Recommendations**

In light of the above we recommend that:

- the Government be asked to start an inclusive consultation process to address the freedom of religion or belief issues raised by the judgment;
- draft legislation to enable religious or belief communities to acquire legal personality, as such, in line with Article 9 and Article 11 of the ECHR and the OCSE/VC Joint Guidelines on Legal Personality of Religious or Belief Communities;
- Ensure that equality and neutrality are observed in public services and the allocation of public funds;
- Take measures to address the restrictions on the right to freedom of religion or belief of the Alevi community, including the lifting the prohibitions on the use of religious titles and recognizing the status of *cemavis*;

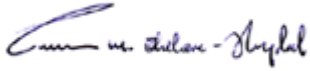
## **General Comment & Recommendation to Committee of Ministers for all three cases:**

In its 2019 Action Plan the Government refers to numerous unfortunate political and security related developments, including the vast number of asylum seekers hosted in the country as important obstacles to the realization of reforms necessary for the effective enforcement of the above judgments. While not underestimating the difficulties it is important to remember that effective protection of human rights is inextricable from a comprehensive concept of security and protection of national security is not one of the permissible grounds for restricting the right to manifest religion or belief.

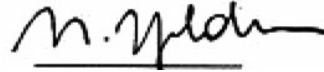
Given Turkey’s efficient bureaucratic structure and the recent enactment of the presidential system, which enables speedy and effective presidential decrees to be passed, the Government is well equipped to carry out the administrative changes required to enforce the judgments. Once the necessary steps are taken important progress will have been made for democracy and protection of human rights in Turkey.

Therefore we call on the Committee of Ministers to prepare a speedy timetable for the measures to be put in place and that the Committee of Ministers will review the implementation of the timetable in the near future, given the extensive delays already involved in these cases.

Sincerely yours,



Gunnar M. Ekelove-Slydal  
Deputy Secretary General



Dr. Mine Yildirim  
Head of Freedom of Belief Initiative